

REMARKS

Claims 1-16 were presented for examination. Claims 17-30 have been withdrawn in response to a prior restriction.

Claims 1-16 -15 were rejected. The applicants respectfully request reconsideration in light of the amendments and the following remarks.

Objection to Claim 7

Claim 7 has been objected to for being of improper dependent form. The applicants wish to thank Examiner Liversedge for so carefully proofreading the claims. Claim 7 has been amended to be dependent on claim 6, and the applicants respectfully submit that claim 7, as amended, overcomes the objection.

35 U.S.C. 112 Rejection of Claim 6

Claim 6 has been rejected under 35 U.S.C. 112, Second Paragraph, because the limitation "as said data processing system" lacks antecedent basis. Again, the applicants wish to thank Examiner Liversedge for so carefully proofreading the claims and finding the typographical error. That limitation has been amended, and the applicants respectfully submit that the rejection is overcome.

35 U.S.C. 103 Rejection of Claims 1-16

Claims 1-16 have been rejected under 35 U.S.C. 103(a) as being unpatentable over S.E. Kinney, Jr. et al., U.S. Patent 6,871,191 B1 (hereinafter "Kinney") in view of M. Miller, The Complete Idiot's Guide to Online Auctions (hereinafter "Miller"). The applicants respectfully traverse the rejection.

Claim 1 recites:

1. A method of conducting an auction, said method comprising:
entering, at a data processing system, a first bid into said auction in behalf of a first bidder;
receiving, at said data processing system, a bid package from a second bidder, wherein said bid package directs said data processing system to determine a bid variable based, at least in part, on **the identity of said first bidder**; and
entering, at said data processing system, a second bid into said auction in behalf of said second bidder, wherein said second bid comprises said bid variable as determined by said data processing system.
(emphasis added)

Nowhere does Kinney or Miller, alone or in combination, teach or suggest what claim 1 recites — namely, the receipt of a bid package at a data processing system from a second bidder that directs the data processing system **to determine a bid variable based, at least in part, on the identity of a first bidder**. One example of this would be a bid package from Alice that directs the data processing system to set a bid at \$50 if Bob had entered a bid into the auction and \$45 if Bob has not entered a bid into the auction. Clearly, this is not taught or suggested by the prior art. A contrasting example might be a bid package from Alice that directs the data processing system to set a bid at \$45 if Bob had entered a bid into the auction and \$50 if Bob has not entered a bid into the auction. Both examples are appropriate under certain circumstances.

The Office action admits that Kinney does not teach this limitation, but asserts that Miller does. The Office action states:

Kinney does not disclose where parameters for determining a second bid include the identity of the first bidder. However, Miller discloses where parameters for determining a second bid include the identity of the first bidder (page 157-160).

The applicants respectfully disagree. A careful reading of Miller does not teach this concept. Instead the cited portion of Miller discusses the concept of user feedback, which enables the auction solicitor and the bidder in an auction to leave feedback on each other. For example, Miller teach that a potential bidder can then consider the feedback rating of an auction solicitor in deciding whether or not to bid in an auction, and Miller also teaches that the auctioneer (*e.g.*, eBay, *etc.*) can use poor feedback ratings to discipline those who use its site. Nowhere, however, does Miller teach or suggest, alone or in combination with any of the prior art references receipt of a bid package at a data processing system from a

second bidder that directs the data processing system **to determine a bid variable based, at least in part, on the identity of a first bidder**. For this reason, the applicants respectfully submit that the rejection is traversed.

Because claims 2-5 depend on claim 1, the applicants respectfully submit that the rejection of it is also traversed.

Independent claim 6, as currently amended, recites:

6. A method of conducting an auction, said method comprising:

entering, at a data processing system, a first bid into said auction in behalf of a first bidder, wherein said first bid comprises a first bid variable;

receiving, at said data processing system, a bid package from a second bidder, wherein said bid package directs said data processing system **to determine a second bid variable based, at least in part, on the identity of said first bidder and on said first bid variable**; and

entering, at said data processing system, a second bid into said auction in behalf of said second bidder, wherein said second bid comprises said second bid variable as determined by said data processing system.

(emphasis supplied)

Nowhere does Kinney or Miller teach or suggest, alone or in combination, what claim 6 recites — namely, the receipt of a bid package at a data processing system from a second bidder that directs the data processing system **to determine a bid variable based, at least in part, on the identity of a first bidder** and **a bid variable in the first bidder's bid**. The reasoning is analogous to that discussed above, and, therefore, the applicants respectfully submit that the rejection is traversed.

Because claim 7 depends on claim 6, the applicants respectfully submit that the rejection of it is also traversed.

Independent claim 8 recites:

8. A method of conducting an auction, said method comprising:

entering, at a data processing system, a first bid into said auction in behalf of a first bidder, wherein said first bid comprises a first bid variable;

entering, at said data processing system, a second bid into said auction in behalf of a second bidder, wherein said second bid comprises a second bid variable;

receiving, at said data processing system, a bid package from a third bidder, wherein said bid package directs said data processing system **to**

determine a third bid variable based, at least in part, on the identity of said first bidder and on the identity of said second bidder; and

entering, at said data processing system, a third bid into said auction in behalf of said third bidder, wherein said third bid comprises said third bid variable as determined by said data processing system.

(emphasis supplied)

Nowhere does Kinney or Miller teach or suggest, alone or in combination, what claim 8 recites — namely, the receipt of a bid package at a data processing system from a third bidder that directs the data processing system **to determine a bid variable based, at least in part, on the identity of a first bidder** and **on the identity of a second bidder**. The reasoning is analogous to that discussed above, and, therefore, the applicants respectfully submit that the rejection is traversed.

Because claims 9-14 depend on claim 8, the applicants respectfully submit that the rejection of it is also traversed.

Independent claim 15 recites:

15. A method of conducting an auction, said method comprising:

entering, at a data processing system, a first bid into said auction in behalf of a first bidder;

entering, at said data processing system, a second bid into said auction in behalf of a second bidder;

receiving, at said data processing system, a bid package from a third bidder, wherein said bid package directs said data processing system **to determine a third bid variable based, at least in part, on the identity of said first bidder and to ignore the identity of said second bidder in determining said third bid variable;** and

entering, at said data processing system, a third bid into said auction in behalf of said third bidder, wherein said third bid comprises said third bid variable.

(emphasis supplied)

Nowhere does Kinney or Miller teach or suggest, alone or in combination, what claim 15 recites — namely, the receipt of a bid package at a data processing system from a third bidder that directs the data processing system **to determine a bid variable based, at least in part, on the identity of a first bidder** and **to ignore the identity of a second bidder**. The reasoning is analogous to that discussed above, and, therefore, the applicants respectfully submit that the rejection is traversed.

Because claim 16 depends on claim 15, the applicants respectfully submit that the rejection of it is also traversed.

Request for Reconsideration Pursuant to 37 C.F.R. 1.111

Having responded to each and every ground for objection and rejection in the Office action mailed April 16, 2007, applicants respectfully request reconsideration of the instant application pursuant to 37 CFR 1.111 and request that the Examiner allow all of the pending claims and pass the application to issue.

If there are remaining issues, the applicants respectfully request that Examiner telephone the applicants' attorney at 732-578-0103 x11 so that those issues can be resolved as quickly as possible.

Respectfully,
Steven Phillip Gologorsky et al.

By **/Jason Paul DeMont/**

Jason Paul DeMont
Reg. No. 35793
Attorney for Applicants
732-578-0103 x11

DeMont & Breyer, L.L.C.
Suite 250
100 Commons Way
Holmdel, NJ 07733
United States of America